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EXAMINER

GRAHAM, CLEMENT B

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/547,409	Applicant(s) FINN ET AL.	
	Examiner Clement B. Graham	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 22-42 remained pending.
2. Claims 22-42 under - 35 USC § 101 has been withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, Claim 22, states in the preamble “an investment vehicle including computer hardware and computer software for enabling a plurality of investors to selectively buy and sell interests in each of a plurality of different individual securities traded on at least one financial market, comprising”, it is unclear as to whether claim 22, is a System, Apparatus, or a Method claim. For further examination, the examiner interprets the limitation in light of this 112, second rejection as being a system claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22-42, are rejected under 35 U.S.C. 103(a) as being unpatentable over

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Wallman U.S Patent 6, 996, 539 in view of Lupien et al (Hereinafter Lupien U.S Patent 5, 101, 353).

As per claim 22, Wallman discloses an investment vehicle including computer hardware and computer software for enabling a plurality of investors to selectively buy and sell interests in each of a plurality of different individual securities traded on at least one financial market, comprising:

a programmed computerized data processing system having at least one central processing unit for performing data processing operations, storage devices, databases, and communications interfaces (see column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45)

a plurality of accounts, stored and processed by the computerized data processing system, for which the plurality of investors buy and sell the interests in the plurality of Securities, each of the accounts corresponding to at least one of the plurality of investors (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45) and a graphical user interface provided by the programmed computerized data processing system for the plurality of investors to create and manage their at least one corresponding account(see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45)

the programmed computerized data processing system performs data processing .operations such that, for each of the plurality of individual securities, interests in the security which are bought or sold by the at least one investor correspond to a selected fractionalized market unit of the security (see column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45) and the programmed computerized data processing system performs data processing operations that accept and execute investor transmitted orders to buy and sell the interests in the plurality of securities, each of the orders is an instruction to buy and/or sell interests in one or more of the plurality of securities (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

Wallman fail to explicitly teach that each of the orders can include a plurality of limit requests, wherein each of the plurality of limit requests is a request to buy or sell

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interests in one or more of the plurality of securities upon the happening of a specific event or condition determined by the investor and monitored by the programmed computerized data processing system.

However Lupien discloses a screen displaying all pending orders for an individual user. Clients can view their orders ranked by size (as displayed), nearness to execution, price move for the day, symbol, etc. The screen is divided so that Sales appear on one half of the screen, Purchases on the other. For each order, the security's symbol, best bid, market or exchange displaying that best bid (an `` means the best bid resides on the system represented by the current invention), similar information for the ask price, the multiple of shares represented by the best bid and ask, the size of this client's order in multiples of shares and the current limit price associated with this order.(see column 7 lines 47-59 and column 8 lines 22-32and column 10 lines 24-67).

Therefor it would have been obvious to one of ordinary skill in the art the time the invention was made modify the teachings of Wallman to include each of the orders can include a plurality of limit requests, wherein each of the plurality of limit requests is a request to buy or sell interests in one or more of the plurality of securities upon the happening of a specific event or condition determined by the investor and monitored by the programmed computerized data processing system taught by Lupien in order to trade securities in financial markets and, more particularly, to apparatus and a method for broadly increasing liquidity and depth in such markets by trading portions of normally dormant portfolios including those with numerous and diverse securities. The invention seeks to accomplish this without substantially increasing the risk of loss to holders of those portfolios by maintaining an approximation of the desired investment mix in those portfolios while reacting to market pressures so as to generate incremental returns to portfolio holders

As per claim 23, Wallman discloses wherein at least one of the plurality of limit requests is a request to buy or sell interests in more than one of the plurality of securities upon the happening of a specific event or condition(see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 24, Wallman discloses wherein the event or condition ~ relates to at least one of a market index, a change in a portfolio total value, a change in a portfolio weighted average value, a corresponding One of the plurality of accounts as a whole, and a corresponding one of the investors (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 25, Wallman discloses wherein the event or condition c-an relates to something or someone unrelated to corresponding ones of the securities, a corresponding one of the accounts, or a corresponding one of the investors (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 26, Wallman discloses wherein the investment vehicle enables the investors to organize, using the graphical user interface, holdings in the corresponding accounts into one or more groups that can be defined by the investors to suit the investors" portfolio structuring desires (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 27, Wallman discloses wherein the investor specifies art allocation factor for each security and for each group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account, and the allocation factor for a security specifying a percentage of a total mount to be to be used to purchase interests in securities for the group in which the security is located, or if the security is not in a group, a percentage of the total amount to be used to purchase interests in securities for the account (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 28, Lupien discloses wherein each of the investors is charged a fixed commission for each order that is accepted and acted upon by the investment vehicle on behalf of the investor, the commission being determined irrespective of the number of different securities that are involved with the order, the number of shares of each security involved in the order, the value of the investor's portfolio, and the fact that the order may include requests to both buy and sell interests in securities (see column 22

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lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 29, Wallman discloses wherein each of the , securities involved in the order is allocated a percentage of the commission charged, the percentage being derived by dividing the value of the interest of each security purchased or sold by the total value of the interests of all the securities purchased or sold (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 30, Wallman discloses wherein each of the investors is charged a fixed commission for each order that is accepted and acted upon by the investment vehicle on behalf of the investor, the commission being determined irrespective of the number of shares of each security involved in the order, the value of" the investor's portfolio, and the fact that the order may include requests to both buy and sell interests in securities (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 31, Wallman discloses wherein each of the securities involved in the order is allocated a percentage of the commission charged, the percentage being derived by dividing the value of the interest of each security purchased or sold by the total value of the interests of all the securities purchased or sold (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 32, Wallman discloses wherein the graphical user interface provides the investors with dynamically re-configurable building blocks, each representing at least one of a security and a group of securities held in a corresponding one of the accounts, to enable the investors to build, re-configure and manage the accounts in a visually intuitive manner and to visually offer the investors portfolio information for the accounts (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 33, Wallman discloses wherein the investment vehicle enables the investors to organize, using the graphical user interface, holdings in the corresponding accounts into hierarchical, multi-tiered portfolio structures or one or more groups and subgroups that are defined by the investors to suit the investors' portfolio structuring

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desires (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 34, Wallman discloses wherein for each account, the corresponding investor can specifies an allocation factor for each security, for each group and for each sub-group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account in which the group is located, the allocation factor for a sub-group specifying a percentage of a total amount to be used to purchase interests in securities for the group in which the sub-group is located, and the allocation factor for a security specifying a percentage of a total amount to be to be used to purchase interests in securities for the group or sub-group in which the security is located, or if the security is not in a group or sub-group, a percentage of the total amount to be used to purchase interests in securities for the account in which the security is located (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 35, Wallman discloses, wherein the investor and extends the account portfolio structure such that subgroups can themselves have subgroups (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 36, Wallman discloses where individual securities reside at any tier level alongside groups and subgroups within the account portfolio (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 37, Wallman discloses wherein the investors ~ modify at least one of their corresponding account portfolio securities, groups, subgroups and allocation factors at any time after account set-up (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 38, Wallman discloses wherein the graphical user interface provides the investors with dynamically be-configurable building blocks, each representing at least one of a security, a group of securities, and a subgroup of securities held in a corresponding one Ofthe accounts, to enable the investors to build, re- configure and manage the accounts in a visually intuitive manner and to visually offer the investors

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portfolio information for the accounts (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 39, Wallman discloses wherein the investor specifies for holdings in a corresponding one of the accounts percentages of the total value of the account to which the values of the holdings should correspond, and wherein the investment vehicle reviews the investor's account and compares the holdings in the account with the specified percentages, and upon finding a discrepancy between the holdings and the specified percentages, which discrepancy is above a level set by the investor, notifies the investor of the discrepancy (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 40, Wallman discloses wherein the investor specifies for securities and groups of securities in a corresponding one of the accounts percentages of the total value of the account to which the values of the holdings should correspond, and wherein the investment vehicle review the investor's account and compares the holdings in the account with the specified percentages, and upon finding a discrepancy between the holdings and the specified percentages, which discrepancy is above a level set by the investor notifies the investor of the discrepancy (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 41, Wallman discloses wherein the investor specifies for securities, groups of securities, and subgroups of securities in a corresponding one of the accounts percentages of the total value of the account to which the values of the holdings should correspond, and wherein the investment vehicle review the investor's account and compares the holdings in the account with the specified percentages, and upon finding a discrepancy between the holdings and the specified percentages, which discrepancy is above a level set by the investor, notifies the investor of the discrepancy (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

As per claim 42, Wallman discloses wherein the investors can modify at least one of their corresponding account portfolio securities, groups, and allocation factors at any

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time after account set-up (see column 22 lines 44-67 and column 13 lines 57-67 and column 14 lines 1-55 and column 16 lines 1-45).

CONCLUSION

Response to Arguments

6. Applicant's arguments filed on 4/14/2008 have been fully considered but are moot in view of new grounds of rejections necessitated by the amendments made in the claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kambiz Abdi/

Supervisory Patent Examiner, Art Unit 3692

CG

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